THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/S) No. 1294 of 2005.

Som Prakash Chauhan, Son of Sri Hukam Chandra,
R/O 17, Moti Bazar, Dehradun.

… P**etitioner.**

Vs.

1. Preveen Kumar son of Sri Amar Nath, R/O 1/44-Tagor Colony, Dehradun.
2. Nagar Nigam Dehradun through its Mukhya Nagar Adhikari.

…Respondents.

Sri H.M.Raturi, learned counsel for the petitioner.
Sri Arvind Vashist, Learned Counsel for the respondents.

Date August 14, 2006
P.C.: Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has sought a writ, order or direction in the nature of certiorari quashing the Original Suit No. 490 of 2005 Praveen Kumar Vs. Nagar Nigam, Dehradun along with all consequential orders pending before the Civil Judge (Senior Division) Dehradun on the ground that petitioner is running a business of shop in Moti Bazar, Dehradun which is adjacent to Paltan Bazar Dehradun and under special drive launched in compliance of the High Court order, the obstructions were removed from the public pathway/passage. The respondent no.1 filed a suit for injunction before the Court of Civil Judge (Sr.Div.) Dehradun against the respondent no.2 and obtained injunction order and the said suit is still pending. The petitioner has sought quashing of this suit.

Court Affidavit has been filed by the respondent no.1. It has been stated by the respondent that the petitioner is not a party to the suit and not an aggrieved party. Without seeking impleadment in the suit, the petitioner of the petitioner is not maintainable.

Without jumping into the controversy involved, it is pertinent to mention that it is admitted to the petitioner that he is not a party to the suit.

If the petitioner has any grievance, he can very well move impleadment application before the court concerned. The learned counsel for the petitioner Sri H.M.Raturi ahs submitted that now he has moved the impleadment application before the court below. If the petitioner is aggrieved, he may move an application under Order 7, Rule 11 of the Code of Civil Procedure for rejection of the plaint after impleadment.

With the aforesaid observations, the writ petition is dismissed in-limine. Interim order dated 24.11.2005 passed by this Court is vacated.

(B.S.Verma,J.)

RCP